

In the Supreme Court of the State of Idaho

In Re the General Adjudication
of Rights to the Use of Water
from the Snake River Basin
Water System

The State of Idaho, ex rel.
A. Kenneth Dunn in his official
capacity as director of the Idaho
Department of Water Resources,

Petitioner,

v.

The United States; the State of
Idaho; and all claimants to the
use of water from the Snake River
Basin Water System,

Defendants.

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Department of Water Resources

Supreme Court No. 99143

ORDER APPOINTING DISTRICT
JUDGE AND DETERMINING
VENUE OF PETITION FOR
GENERAL ADJUDICATION OF
WATER RIGHTS IN SNAKE
RIVER BASIN

WHEREAS, a Petition has been filed by The State of Idaho, ex rel. A. Kenneth Dunn in his official capacity as director of the Idaho Department of Water Resources, for the general adjudication of all water rights in the Snake River Basin pursuant to I.C. §§ 42-1406(A) and 42-1407, and

WHEREAS the Court is authorized and directed by I.C. § 42-1408 to assign a district judge to preside over the general adjudication and to determine the venue of such general adjudication proceeding, and

WHEREAS the Court has made these determinations and has further determined that further direction should be given for the processing of said general adjudication proceeding including the filing of any notice of appeal from the decisions of the district judge pursuant to I.C. § 42-1418.

NOW, THEREFORE, IT IS HEREBY ORDERED, that District Judge Daniel C. Hurlbutt, Jr., be, and he is hereby, assigned as the presiding judge over this action as a general adjudication of the water rights in the Snake River Basin.

IT IS FURTHER ORDERED, that pursuant to I.C. § 42-1408 the Court does hereby designate the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, as the County and Court of venue for this general adjudication proceeding and that all pleadings and documents with regard to this general adjudication shall be filed with the clerk of that court. Notwithstanding this designation of venue, hearings may be held by masters and the presiding district judge at such places within the state of Idaho as are designated by the presiding judge for the convenience of the parties and witnesses.

IT IS FURTHER ORDERED, that neither the presiding judge nor any Special Master appointed by him pursuant to I.C. § 42-1422 shall be subject to an automatic disqualification without cause under Rule 40(d)(1) of the Idaho Rules of Civil Procedure.

IT IS FURTHER ORDERED, that both the presiding judge and any Special Master appointed by him pursuant to I.C. § 42-1422 shall be subject to disqualification for cause under and pursuant to Rules 40(d)(2) and 40(d)(3) of the Idaho Rules of Civil Procedure. Any motion for disqualification for cause shall be heard and determined by the presiding district judge or Special Master sought to be disqualified and the granting or denial of a motion

for disqualification of a Special Master may be appealed to the presiding district judge within the time and in the manner as an appeal from the Magistrate's Division as prescribed by Rule 83 of the Idaho Rules of Civil Procedure. The ruling of the presiding district judge in such an appeal shall not be appealable as a matter of right to the Idaho Supreme Court. In the event of the disqualification of the Special Master, the presiding district judge shall appoint a new Special Master and in the event of the disqualification of the presiding district judge this Court will appoint the new presiding judge to preside over those matters as to which the initial presiding judge is disqualified.

IT IS FURTHER ORDERED, that except as expressly provided in this Order, all appeals from the presiding district judge to the Idaho Supreme Court will be governed by the Idaho Appellate Rules.

IT IS FURTHER ORDERED, that an appeal may be taken to the Idaho Supreme Court from any of the orders and judgments of the presiding district judge which are enumerated in Rule 11(a) of the Idaho Appellate Rules, and that in addition thereto any aggrieved party may appeal from an order commencing or denying the commencement of a general adjudication action, rendered pursuant to I.C. § 42-1419 and any partial decree certified as final under Rule 54(b) I.R.C.P. by the presiding district judge which adjudicates some but not all of the water rights within the scope of the general adjudication proceeding.


IT IS FURTHER ORDERED, that any aggrieved party may apply for permission to appeal to the Idaho Supreme Court from any other order of the presiding district judge in the manner set forth in Rule 12 of the Idaho Appellate Rules, including an order appointing or refusing to appoint a person as a Special Master, an order approving or disapproving a negotiated agreement between the state and a federal claimant, and an order approving or rejecting jurisdiction of the presiding district judge over a claimant of any water right. The Court acknowledges that a general adjudication proceeding is a special type proceeding requiring more supervision by the Idaho Supreme Court and that it intends to grant permission to appeal from any order of the presiding district judge which affects substantial rights of the parties and which will substantially affect the proceedings in the general adjudication action.

IT IS FURTHER ORDERED, that any appeal to the Idaho Supreme Court from an order, judgment or decree of the presiding district judge shall not stay the adjudication of other claims and issues pending in the general adjudication

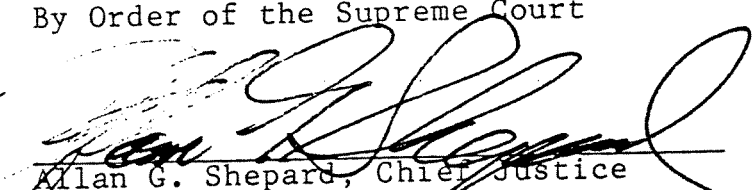
DATED this 19th day of June, 1987.

By Order of the Supreme Court

ATTEST:


Clerk

cc: Hon. Daniel C. Hurlbutt, Jr.
Hon. Jim Jones, Attorney General
District Court Clerk Pence
A. Kenneth Dunn, Dir., Dept. of Water Resources


Allan G. Shepard, Chief Justice

I, Frederick C. Lyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office.

WITNESS my hand and the Seal of this Court 6/19/87

FREDRICK C. LYON

Clerk

By: 

Deputy